IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5819 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the civil judge?

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RAMJIBHAI H PATEL - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR DIPAK C RAVAL for the Petitioner
MS RETTA CHANDARANA, A.G.P. for Respondent No.s 1 and 2
MR PRANAV V SHAH for Respondent No.3

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 08/03/2006

ORAL JUDGMENT

1. In the present petition, the petitioner who is a retired employee of the government, has prayed for release of his pensionary benefits. The petitioner was discharging his duties as Talati-cum-Mantri. He was

permitted to retire on voluntary retirement basis on 28.11.2001. It is not in dispute that the petitioner retired after putting in pensionable service. The petitioner therefore, was required to be paid pension and other post retiral benefits. These benefits were not released. During the pendency of the petition, the respondents released the pensionary benefits of the petitioner by paying him some pension and other retiral benefits some time in November, 2003. The petitioner has brought on record by way of amendment subsequent order dated 30.05.2005, by which he was granted Higher Pay Scale. In view of the above factual background, learned Advocate for the petitioner states that the grievance of the petitioner now survives are of two fold. Firstly, release of post retiral benefits of the petitioner is delayed for nearly two years. Secondly, that the petitioner's pension should be refixed on the basis of his readjusted pay fixation by virtue of order dated 30.05.2005.

2. There is no explanation available on record from the respondents to point out the cause for delay in releasing post retiral benefits. Mr. Shah, learned Advocate places on record a communication dated 03.09.2003, in which it

is stated that at the time of voluntary retirement of the petitioner there was some complaint against him which was inquired into and eventually, no case was found for proceeding further. The nature of the complaint and the allegations levelled against the petitioner are not known. By that as it may, admittedly, no charge-sheet was issued against the petitioner when he retired or after his retirement. The petitioner, therefore, cannot be blamed for delay in finalization of post retrial benefits. Pension and other benefits paid to the petitioner therefore, shall carry reasonable interest. The petitioner is also justified in claiming pension and other retiral benefits on the basis of readjusted pay fixation by order dated 30.05.2005. In the result the petition is disposed of by giving following directions:

(1) The respondents shall refix the pension and other retiral benefits of the petitioner on the basis of his pay fixation pursuant to order dated 30.05.2005 and release arrears if found payable. This shall be done within a period of three months from the date of receipt of a copy of this order; and

(2) The post retiral benefits including pension, gratuity and other amounts except Commuted Value of Pension paid to the petitioner shall carry simple interest at the rate of 7% per annum from three months after the date of retirement of the petitioner till its actual payment.

3. With these directions, the petition is disposed of. Rule is made absolute to the above limited extent. No order as to costs.

[Akil Kureshi, J.]

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